

Remarks

The Election/Restriction identifies the following species:

1. Species of Figures 2a-c
2. Species of Figures 3a-d
3. Species of Figures 4a-d
4. Species of Figures 5a-d
5. Species of Figures 5e-f
6. Species of Figure 6
7. Species of Figure 7
8. Species of Figure 8
9. Species of Figure 10

The Election/Restriction also identifies the following subspecies:

- a) Figure 9a
- b) Figure 9b

Applicant herein elects Species 1, corresponding to claims 1-7, with traverse. Applicant traverses on the ground that a sufficient showing of a burden has not been met by the Examiner. The Examiner has advanced that each of the species set forth require a different field of search. Applicant respectfully submits that the Examiner has not identified such a different field of search. MPEP 808.02(C), provides that when an Examiner seeks to establish burden based upon the necessity of a different field of search, “The *indicated* different field of search must in fact be pertinent to the type of subject matter covered by the claims.” The Examiner has not specifically indicated a different field of search. Rather, the Examiner has made only the general statement that a different field of search would be required for these “patentably distinct species due to their mutually exclusive characteristics.” In addition, the Applicant respectfully submits that a different field of search is not required for each species set out in the Restriction/Election. For example, regarding the Species of Figs. 2a-c and the Species of Figs. 3a-d, the claims

corresponding to both species are directed to heart valve leaflet removal apparatuses. Although Applicant acknowledges that under MPEP 808.02(C), "Patents need not be cited to show different fields of search", the Applicant respectfully submits that more is required to establish burden. There is no explanation in the Restriction Requirement as to why these claims represent an additional burden.

A request for a five (5) month extension of time under 37 C.F.R. 1.136(a) is being made concurrently with this response via the EFS-Web. Please charge to Deposit Account No.13-2546 the fee of \$2230.00 which is required for the five-month extension of time.

If the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due, including additional claims fees, in connection with the filing of this document to Deposit Account No. 13-2546 referencing Attorney Docket No. P-22008.00.

Respectfully submitted,

Date

Feb. 22, 2008

By:



Katrina A. Witschen

Reg. No. 59,862

MEDTRONIC, INC.

7000 Central Avenue NE

Minneapolis, MN 55432

Tel. 763.505.8418

Fax. 763.505.8436

Customer No. 27581